

Message Text

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TO AMEMBASSY BAMAKO

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LIMDIS

E.O. 11652: N/A

TAGS: PFOR, BDIS, ETRN, ML, FR, US

SUBJECT: WORLD AIRWAY LEASE WITH AIR MALI: BROKER FEE
DISPUTE

1. WORLD AIRWAYS ATTORNEY ADVISED OCTOBER 5 THAT MIAMI AVIATION CORPORATION FILED SUIT IN SUPERIOR COURT, ALAMEDA COUNTY, CALIF. IN NOVEMBER 1972 TO OBTAIN BROKER'S FEES IN EXCESS HUNDRED THOUSAND DOLLARS IT CLAIMS WORLD AIRWAYS INCORRECTLY PAID TO FRANCOIS GAILLARD, 72 BLVD. KONEIG, NEIULLY-SUR-SEINE, 92, FRANCE SINCE 1971 FOR ITS BOEING 727 LEASE WITH AIR MALI. AS BACKGROUND ATTORNEY EXPLAINED WORLD AIRWAYS HAD SENT CIRCULAR IN 1971 TO MANY COMPANIES WORLDWIDE, INCLUDING AIR MALI AND MIAMI AVIATION, CONCERNING AVAILABILITY ITS 727, AND ISMA N'DIAYE, MALIAN REPRESENTING AIR MALI, ARRIVED AT WORLD AIRWAYS' HEAD-QUARTERS OAKLAND, CALIF. WITH MIAMI AVIATION REPRESENTATIVE. N'DIAYE NEGOTIATED AIR MALI'S CONTRACT, BUT SPECIFIED

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GAILLARD RATHER THAN MIAMI AVIATION AS BROKER, CLAIMING

HE MET WITH MIAMI AVIATION REPRESENTATIVE ON SEPARATE FINANCING MATTER BUT COMPANY HAD NOT ACTED AS BROKER ON THIS MATTER. RECENTLY MIAMI AVIATION CAME UNDER NEW MANAGEMENT, AND OBVIOUSLY MADE DECISION IT HAD CAUSE OF ACTION RE BROKERAGE FEE. COPY OF COMPLAINT POUCHED.

2. ATTORNEY SAID WORLD AIRWAYS HAD DEFENSE AGAINST SUCCESSFUL SUIT THRU ITS "HOLD HARMLESS" CLAUSE IN LEASE AGREEMENT THAT PROVIDES SHOULD COURT RULE WORLD AIRWAYS LIABLE TO ANOTHER FOR BROKERAGE FEES AIR MALI MUST REIMBURSE WORLD AIRWAYS. HOWEVER, WORLD AIRWAYS HOPES TO AVOID THIS TO PRECLUDE HARMING ITS PROFITABLE RELATIONS WITH AIR MALI AND POTENTIAL PROBLEMS IN GETTING MALIAN COURTS TO ENFORCE LEASE PROVISIONS AGAINST AIR MALI.

3. ANOTHER PROBLEM COULD ARISE IF MIAMI AVIATION ALLEGES ANY OF THE FOLLOWING: (A) ILLICIT PAYMENTS WERE MADE TO THEN AIR MALI DIRGEN ABDOULAYE MAIGA, THEN ASST. DIRGEN MALIAN DEVELOPMENT BANK AMADOU DIARRA, MINISTER TRANSPORT DEMBELE AND POSSIBLY OTHERS TO OBTAIN THEIR AGREEMENT TO LEASE, AND (B) PAYMENTS MADE FOR SAME PURPOSE TO AS YET UNNAMED MALIANS SAID TO BE PRO-SOVIET, SINCE THE USSR HAD UP UNTIL THEN PROVIDED AIR MALI WITH ILLYUSHINS FOR ITS INTERNATIONAL FLIGHTS AND SOVIETS WERE ANGRY OVER AIR MALI DECISION TO LEASE US AIRCRAFT. ATTORNEY PROMISED MORE DETAILS WHEN AVAILABLE TO HIM.

4. AF/W 1971 FILES INDICATE THAT LEASE AGREEMENT WITH WORLD AIRWAYS CAME ABOUT AFTER N'DIAYE AND DIARRA WERE UNSUCCESSFUL IN THEIR ATTEMPTS TO NEGOTIATE A LEASE-PURCHASE AGREEMENT FOR US AIRCRAFT THROUGH TWO DIFFERENT COMPANIES, MIAMI AVIATION AND INTERNATIONAL AVIATION, DUE PRIMARILY TO AIR MALI'S POOR FINANCIAL CONDITION THAT PRECLUDED BOTH EXIM AND COMMERCIAL BANK FINANCING. (BAMAKO A-50, BAMAKO 1057, 1016, STATE 71622, BAMAKO 700, STATE 61113, 55670, BAMAKO 532). MOREOVER, WHEN AIRLIFT INTERNATIONAL NEGOTIATION FELL THROUGH, THERE WERE CLAIMS FROM BOTH THAT COMPANY AND JAMES RYAN, A BROKER (BAMAKO 505). ATTORNEY WOULD APPRECIATE LEARNING CURRENT WHERE-LIMITED OFFICIAL USE

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ABOUTS N'DIAYE AND DIARRA, AND ANY OTHER PERSONS KNOWN TO HAVE PARTICIPATED IN WORLD AIRWAY LEASE AGREEMENT IN 1971 (MAITRE HAMICIRE N'DOURE WAS MALIAN LAWYER HIRED BY WORLD AIRWAYS DURING 1971 NEGOTIATIONS TO REVIEW PROPOSED LEASE AGREEMENT, ACCORDING TO BAMAKO 1015).

5. DEPT. WILL INFORM AMBASSADOR TRAORE IN CONFIDENCE OF FOREGOING, AND SUGGEST CHARGE SIMILARLY INFORM APPROPRIATE

GOM OFFICIAL. RUSH

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